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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

S.A.No.75 of 2012

1. K. Kumar
 2. K.Krishnakumar
- ...Appellants/Plaintiffs

Vs

Arulmighu Pidari Uthanatchiamman
Mangaleswarar and Bala Vinayagar
Thirukoil, Arumbakkam, Chennai - 106.
represented by its Executive Officer
having office at Arulmighu
Ekambareswarar Thirukoil,
Amainthakarai, Chennai - 600 029. ...Respondent/Defendant

PRAYER: Second Appeal filed under Section 100 of C.P.C., to set aside the Judgment and Decree dated 19.04.2011 in A.S.No.233 of 2010 on the file of the VI Additional Judge, City Civil Court, Chennai confirming the Judgment and Decree in O.S.No.7245 of 2008 dated 19.01.2010 on the file of the VII Assistant Judge, City Civil Court, Chennai.

For Appellants : Mr. S.Balaji
For Respondent : Mr. S.D.Ramalingam

JUDGMENT

The plaintiffs are the appellants in the second appeal.

2. The plaintiffs filed the suit seeking for the relief of declaration to declare that the communication made by the defendant seeking for enhancement of rent is void ab initio and for a permanent injunction restraining the defendant from demanding the arrears of rent by virtue of the enhancement of rent.

3. The case of the plaintiffs is that they are the tenant in the suit property which belongs to the defendant.



The plaintiffs became the tenant in the year 1981 and the plaintiffs were also paying the rents that were fixed from time to time by the defendant. While so, through communication dated 19.08.2008, marked as Exs.A13 to A15, the defendant increased the rent and sought for enhancement of rent. According to the plaintiffs, the enhancement of rent is against the provisions of Section 34-A of the Hindu Religious and Charitable Endowments Act. Hence, the communication was put to challenge by filing the suit before the Court below.

4. Heard, Mr. S.Balaji, learned counsel for the appellants and Mr. S.D.Ramalingam, learned counsel for the respondent. This Court carefully went through the pleadings and also the findings rendered by both the Courts below based on the evidence available on record.

5. Both the Courts below, after carefully understanding and analysing the grievance of the plaintiffs, found that the suit itself is barred and the plaintiffs had an effective Appellate remedy under Section 34-A of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Both the Courts concurrently found that the jurisdiction of the Civil Court has been barred under Section 108 of the Act and if at all the plaintiffs were aggrieved by the enhancement of rent, only an Appeal should have been preferred before the concerned Authority and an independent suit should not have been filed before the Civil Court. In order to reach such a finding, both the Courts below have relied upon the Reported Judgments on the issue.

6. In the considered view of this Court, the findings of both the Courts below does not warrant the interference of this Court and the findings are based on the settled principles of law. No substantial questions of law are involved in the second appeal.

7. In the result, the second appeal is dismissed. Considering the facts and circumstances of the case, there shall be no order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



Lpp

To

1.The VI Additional Judge, City Civil Court, Chennai.

2.The VII Assistant Judge, City Civil Court, Chennai.

Copy to

The Section Officer

VR Section

High Court, Madras 104.

+1 CC to Mr.S. Balaji, Advocate sr 27135.

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MG(CO)

SP(11/05/2022)